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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X
ENCOMPASS INSURANCE COMPANY, as subrogee of
Juan Polanco and Martina Fernandez,

Plaintiff,

-against-

CIVIL ACTION NO.:
07 CV 3857

DE LIMA CONTRACTORS, INC., GENE DE OLIVEIRA,
Individually, and d/b/a OLIVEIRA CONTRACTING,
and ALBERT PALANCIA AGENCY, INC.,

Jury Trial Demanded

Defendants.
-----X

**NOTICE OF LAWSUIT AND REQUEST
FOR WAIVER OF SERVICE OF SUMMONS**

**TO THE ABOVE-NAMED DEFENDANTS, GENE DE OLIVEIRA, Individually and
d/b/a OLIVEIRA CONTRACTING:**

TO: Jean Olivera, also known as Gene de Oliveira, an authorized officer, managing or general agent, or any other person authorized by law to receive service of process for **Gene De Oliveira d/b/a Oliveira Contracting:**

A lawsuit has been commenced against you, both individually and doing business as Oliveira Contracting. In this regard, a copy of the Complaint is attached to this notice. It has been filed in the United States District Court for the Southern District of New York and has been assigned docket number 07-CV-3857.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waivers of service in order to save the cost of serving you

with a judicial summons and an additional copy of the complaint. Note: one waiver is for you personally and the other is for you as a "d/b/a" entity.

The cost of service will be avoided if I receive a signed copies of **both** of the enclosed waivers within **thirty (30)** days after the date designated below as the date on which this Notice and Request are sent. I enclosed a stamped and addressed envelope for your use. An extra copy of each waiver is also enclosed for your records.

If you comply with this request and return the signed waivers, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

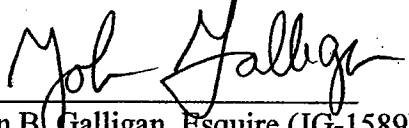
If you do not return the signed waivers within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the bottom of the waiver form.

I affirm that this request is being sent to you on behalf of the Defendant, Gene De Oliveira d/b/a Oliveira Contracting, this 22nd day of June, 2007.

COZEN AND O'CONNOR

Attorneys for Plaintiff

Encompass Insurance Co. a/s/o
Juan Polanco and Martina Fernandez



John B. Galligan, Esquire (JG-1589)
45 Broadway, 16th Floor
New York, New York 10006

WAIVER OF SERVICE OF SUMMONS

**TO: Gene De Oliveira a/k/a Jean Olivera d/b/a Oliveira Contracting
23 Harold Avenue
Greenwich, Connecticut 06830**

An authorized officer, managing or general agent, or any other person authorized by law to receive service of process for **Gene De Oliveira d/b/a Oliveira Contracting**

I acknowledge receipt of your request that I waive service of a summons in the action of Encompass Insurance Company, a/s/o Juan Polanco and Martina Fernandez v. De Lima Contractors, Inc., Gene De Oliveira, Individually, and d/b/a Oliveira Contracting and Albert Palancia Agency, Inc., which is Case Number 07-CV-3857 in the United States District Court for the Southern District of New York. I have also received a copy of the Complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of a summons and an additional copy of the Complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Federal Rule of Civil Procedure 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Federal Rule of Civil Procedure 12 is not served upon you within sixty (60) days after June 21, 2007, or within ninety (90) days after that date if the request was sent outside the United States.

Dated: August 30, 2007

Signature: 

Title: OWNER

Company Name: OLIVEIRA CONTRACTING

Printed Name: JEAN DE OLIVEIRA

DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objection (except any relating to the summons or the service of the summons), and may later object to the jurisdiction of the court or to place where the action has been brought.

A defendant who waives service must, within the time specified on the waiver form, serve on the plaintiff's attorney (or unrepresented plaintiff, a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.